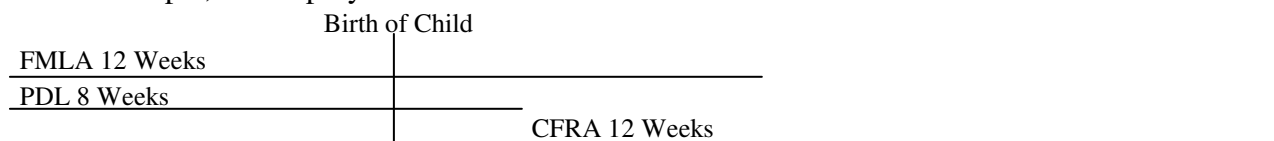


Payroll Dialogue Minutes

Tuesday, May 12, 2009

1. FMLA - Dan Turner

- The City has to consider multiple laws and regulations when determining whether an employee falls under a protected type of leave of absence. When it comes to the Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), State Labor Code 233 (LC233 - refers to Family Sick), Pregnancy Disability Leave (PDL), the Fresno Municipal Code (FMC), Administrative Orders (A.O.), Union agreements (MOU) and more, the City is required to follow the regulation that is the most favorable to the employee.
- When FMLA regulations changed in January 2009, the only real new portions were in regards to military exigency leave and care of service member (these were covered in depth in the January 2009 Dialogue). It is unclear how these will affect the City at this time but you should be aware of them.
- Employees on FMLA/CFRA may not be disciplined for being out while under these protections. Managers should also refrain from mentioning the employee being out under FMLA/CFRA in an employee evaluation.
- Both temporary and permanent employees qualify for FMLA/CFRA as long as they have worked for the City at least 12 months in the last 7 years and 1,250 hours in the 12 months preceding the leave. An employee going on PDL qualifies the day they are hired but, they have only qualified for PDL, not FMLA or CFRA. Also, employees on FMLA/CFRA will continue to have their benefits paid for by the City, this is not the case for an employee on PDL (unless they are also on FMLA).
- FMLA is generally limited to 12 weeks in a fiscal year (starts over on July 1) but there are exceptions:
 - Employees are allowed up to 26 weeks to care for a wounded service member that is their next of kin, parent, sibling, or child (any age).
 - A pregnant employee is only allowed 12 weeks of FMLA but is allowed 4 months of PDL (must be medically verified) and 12 weeks of CFRA for bonding. FMLA runs concurrently with PDL but PDL and CFRA do not run concurrently, CFRA begins once PDL ends. CFRA may be taken any time within one year of the child's birth but must be taken in at least 2 week intervals (the employee may be out less than 2 weeks on 2 occasions). Father's may also receive 12 weeks of CFRA for bonding.
- Example: An employee is placed on PDL 6 weeks before the birth of her child and the doctor orders her to remain on PDL for 2 weeks after the birth of her child. FMLA would begin the same day that the PDL began but CFRA for bonding would not begin until the employee was off PDL. In this example, the employee could be out for 20 weeks.



- Employees out under LC233 may not qualify for FMLA/CFRA but employees under FMLA/CFRA in regards to a family member will fall under LC233. LC233 and FMLA run concurrently in regards to a family member. Family members under both FMLA and LC233 is a parent, spouse (including domestic partner) or a child. Members of Unit 03 FCEA are allowed to use Family sick to care for a sibling but will not have FMLA protection. If an employee needs to care for someone other than listed above, they may use Vac, Comp, or Holiday leave to cover time they are out but they fall under the regulations for those leaves.
- Once an employee has exhausted their 12 weeks of FMLA/CFRA they are no longer protected by

those laws. This does not mean they will be automatically terminated, just no longer protected.

- FMLA/CFRA are not "paid" leaves - do not confuse these with SDI/PFL which is a paid leave (SDI/PFL usually will run concurrently with FMLA/CFRA). Even though they are not paid leaves, the City requires employees use all of their leaves prior to going on leave without pay with some exceptions including Family Sick, SDI/PFL, CFRA for bonding, etc... Also, a woman on PDL may not be required to use Vacation and employees on CFRA for bonding may not use Sick leave.
- Employees should provide 30 days of notice before FMLA leave unless they had no way of knowing they would be using FMLA (sudden illness, accident, etc..).
- There is a new FMLA manual and forms available on the City of Fresno Forms page at <http://www.fresno.gov/Staff/CityForms/FormsByName.htm>. Go to "F" and see FMLA Appendix Form and FMLA Handbook.
- FMLA may be initiated by either the employee or the employer. If you send the employee the FMLA forms because you believe they qualify and they do not respond you should still fill out Appendix A and submit it to Risk Management. You should turn in the paperwork within 2 weeks of determining an employee is on FMLA protected leave. FMLA may also be backdated if it is determined an employee should have been under FMLA. Risk Management will inform the employee if a department has placed an employee on FMLA. An employee may not say they do not want to be on FMLA, and it doesn't matter if the injury was on the job. If an employee has qualified for FMLA but submits a leave form without saying whether the leave falls under FMLA, the Payroll Clerk or Supervisor should ask the employee if the reason they were out was FMLA related. Do not ask why they were out (what was wrong), just ask if it was something that falls under their FMLA.
- If you believe an employee is abusing FMLA, the department has the right to request a fitness for duty exam.
- Under LC233 - Family Sick can only be used for the illness of a family member, not for routine checkups like a dental cleaning or yearly physical.
- Employees may use sick leave for an in-law only under Special Sick reasons (see Municipal Code 3-107).
- Donated Time Reminder - Employee must have exhausted all leaves and be out for a medically verified illness. Employee may be on donated time while on FMLA, CFRA, or PDL.

2. Garnishments - Pauline

- If an employee comes to you with any concerns or questions regarding any type of garnishments (Child Support/Spousal Support Wage Withholding Orders - Federal & State Tax Levies- Superior Court Orders - Bankruptcies) please refer them to contact Pauline # 621-7016. If you happen to receive any calls or correspondence from any government agencies or attorney firms regarding any garnishment matters, do **NOT** take upon yourselves to try to answer any questions or make any attempt to make any arrangements on behalf of the employee, immediately refer the matter to Pauline's attention. This is very important and ensures that the correct information is given out.
- If you or your department receives one of the below envelopes, it needs to be provided to the employee ASAP as the enclosed information is time sensitive (employee only has a limited number of days to respond and try to resolve the debt or make arrangements). This is private/confidential information and intended only for the designated employee; no one other than the employee should open the envelope, under no circumstances. If you are unable to deliver the envelope to the employee right away due to long term illness - vacation- OJI -layoffs, or any other long absences, please notify Pauline and return the unopened envelope back to her immediately.

Do not hold onto the envelope for any reason (remember it has time sensitive material that Pauline needs to respond back). Thank you for your assistance and cooperation.



Question and Answer Session

Q. If a person wants FMLA and has Frozen Sick Leave can he use the Frozen Sick for his wife for FMLA on the 1st day of the FMLA?

A. Yes, because Frozen Sick can always be used for family sick reasons right away. If the FMLA was for the employee himself and he is an 02 Management Unrepresented or a 14 CFMEA he can only use the Frozen Sick if he is out for over 24 consecutive work hours; a 13 CFPEA employee may use Frozen Sick after they been out 24 consecutive work hours on another leave.

Q. In Kronos SDI and FMLA cannot be coded at the same time - do you just keep track of the FMLA?

A. You really need to be tracking both but since you can only put in one code use FMLA. Once Kronos has been uploaded to PeopleSoft take advantage of the comments section to add in a note that this is also time under SDI. The best way to add this comment would be to go into Manager Self Service > Time Management > Report Time > Timesheet. Scroll all the way to the right side of the screen and add the comment in the TRC row where there was FMLA use. This way you are attaching the comment about SDI to the TRC for the entire pay period.

Sun 5/3	Total	Time Reporting Code	Bus Unit	Combo Code	PC Business Unit	Project Id	Activity Id	Resource Type	KRA Strategy	Comment
	80.00	S01_K - Sick - FMLA	FRSNO	40501-413001	DPU	RM00002	JROD		0208001000	SDI